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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,011	11/03/2003	Ralph E. Wesinger JR.	GRAPH-003COD	5849
28661	7590	01/11/2006	EXAMINER	
SIERRA PATENT GROUP, LTD. 1657 Hwy 395, Suite 202 Minden, NV 89423			HA, LEYNNA A	
			ART UNIT	PAPER NUMBER
			2135	

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/701,011

Applicant(s)

WESINGER ET AL.

Examiner

LEYNNA T. HA

Art Unit

2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. Claims 1-19 are pending. This is a Final rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-5 and 8-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Civanlar, et al. (5,617,540).**

**As per claim 1:**

Civanlar discloses a load-sharing server sharing resources with a plurality of servers connected to a computer network, the server comprising:

a network connection; [col.3, lines 63-67]

an association between servers containing the highest availability and plurality of virtual hosts contained on a plurality of servers; and [col.4, lines 40-45 and col.5, lines 38-48]

a server, said server having the highest availability and being in communication with said association **[col.5, lines 13-15]**, wherein at least one corresponding virtual host provides a connection to a client over a computer network **[col.4, lines 51-53]**, said client being in communication with said server over said computer network connection. **[col.4, lines 56-58]**

**As per claim 2:**

Civanlar discloses a method of configuring a load-sharing server sharing resources with a plurality of servers connected to a computer network, the method comprising:

configuring an association between servers containing the highest availability **[col.5, lines 10-15]** and plurality of virtual hosts contained on a plurality of servers; and **[col.5, lines 38-48]**

configuring a server, said server having the highest availability and being in communication with said association **[col.4, lines 40-45 and col.7, lines 34-45]**, said at least one corresponding virtual host providing a connection to a client over a computer network, said client being in communication with said server over a network connection. **[col.4, lines 51-58]**

**As per claim 3: See col.7, lines 34-45:** discusses configuring static information using a master configuration file to propagate the information.

**As per claim 4: See col.4, lines 19-25:** discusses configuring the server comprises using a master configuration file to manage information accessed by use of a virtual

private network.

**As per claim 5: See col.2, lines 27-31:** discusses validating dynamic configuration information.

**As per claim 8: See col.1, lines 50-55 and col.2, lines 39-40:** discusses validating dynamic information comprises examining functionality of DNS-based services.

**As per claim 9: See col.1, lines 55-57 and col.5, lines 59-63:** discussing said server dynamically adding at least one of said computers to distributed interconnection with other computers in a distributed set of system platforms.

**As per claim 10: See col.2, lines 50-53:** discusses adding is performed on a real time basis.

**As per claim 11: See col.1, lines 55-57 and col.5, lines 59-63:** discussing said server dynamically adding at least one of said computers to distributed interconnection with other computers in a distributed set of subsystem platforms.

**As per claim 12: See col.2, lines 50-53:** discussing adding is performed on a real time basis.

**As per claim 13: See col.1, lines 55-57:** discussing the server dynamically removing at least one of said computers from distributed interconnection with other computers in a distributed set of system platforms.

**As per claim 14: See col.2, lines 50-53:** discussing removing is performed on a real time basis.

**As per claim 15: See col.1, lines 55-57:** discussing said server dynamically removing at least one of said computers from distributed interconnection with other computers in

a distributed set of subsystem platforms.

**As per claim 16: See col.2, lines 50-53:** discussing removing is performed on a real time basis.

**As per claim 17:**

Civanlar discloses a method of providing loadsharing using a plurality of computers, the method comprising:

receiving a network connection request; **[col.3, lines 2-5]**

accessing a database using DNS to select a computer from a plurality of computers, wherein the database includes availability data, configuration data, and load information corresponding to each computer in the plurality, **[col.1, lines 50-57]**  
dynamically performing loadsharing using the plurality of computers based on load information, availability data, and configuration data; and **[col.5, lines 10-65]**

providing a connection to a client over a computer network, said client being in communication with said server over a network connection. **[col.4, lines 51-58]**

**As per claim 18: See col.1, lines 50-55 and col.4, lines 42-45:** discussing using DNS to translate a universal resource locator (URL) into an Internet protocol (IP) address.

**As per claim 19: See col.5, lines 10-65:** discussing the server using said loadsharing agent to loadshare traffic requests received from said network between selections from the group consisting of: computers connected to said computer network and clients located on said computers.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**3. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Civanlar, et al., and further in view of Ogawa, et al. (US 5,715,397).**

**As per claim 6:**

Civanlar discloses a method of configuring a load-sharing server sharing resources with a plurality of servers connected to a computer network wherein configuring an association between servers containing the highest availability **[col.5, lines 10-15]** and plurality of virtual hosts contained on a plurality of servers **[col.5, lines 38-48]** providing a connection to a client over a computer network, said client being in communication with said server over a network connection. **[col.4, lines 51-58]**.

However, Civanlar fails to include controlling a sequence for running predetermined series of algorithms.

Ogawa discloses a flexible transfer and translation system wherein is capable of automatically receiving at the intermediate processing location, data from a wild variety of remote sources **[col.2, lines 23-25 and 46-49]**. Ogawa also discusses using tests such as checksums and algorithm are known in the art for discerning whether the data of the file is complete and correct **[col.23, lines 20-25]**.

Therefore it would have been obvious for a person of ordinary skills in the art to modify Civanlar to include controlling a sequence for sequentially of the running predetermined series of algorithms would be to ensure the quality of the file whether the file is accurate and complete.

**As per claim 7:**

Civanlar discloses a method of configuring a load-sharing server sharing resources with a plurality of servers connected to a computer network wherein configuring an association between servers containing the highest availability **[col.5, lines 10-15]** and plurality of virtual hosts contained on a plurality of servers **[col.5, lines 38-48]** providing a connection to a client over a computer network, said client being in communication with said server over a network connection. **[col.4, lines 51-58]**. However, Civanlar fails to include controlling a sequence for running predetermined series of algorithms.

Ogawa discloses a flexible transfer and translation system wherein is capable of automatically receiving at the intermediate processing location, data from a wild variety of remote sources **[col.2, lines 23-25 and 46-49]**. Ogawa also discusses using tests such as checksums and algorithm are known in the art for discerning whether the data of the file is complete and correct **[col.23, lines 20-25]**.

Therefore it would have been obvious for a person of ordinary skills in the art to modify Civanlar to include controlling a sequence for sequentially of the running predetermined series of algorithms would be to ensure the quality of the file whether the file is accurate and complete.



***Response to Arguments***

**4. Applicant's arguments filed October 17, 2005 have been fully considered but they are not persuasive.**

The highest availability broadly gives a reasonable interpretation according to a particular system, thus, can't be pinpoint to the limit of how high is high to ones point of view. The highest availability on one system is subjective where the availability can be at a certain limit that is different to another system so either systems having the "highest" availability is the highest that is available or any available state that is the highest for that particular system. Hence, the highest availability for Civanlar's cannot be compared to applicant's system because the limitation is subjective and is not regulated to a value.

Prior art, Civanlar, provides communications between a client and a server for multimedia services that maximizes performance through the network and discusses having an availability state where the availability is shown as in idle, active, or full state (col.5, lines 13-15). The idle state indicates there are no clients being served and the active state indicates there is at least one client being served. The highest availability can be the idle state where there are no clients which leaves the traffic clear, thus, is at its highest availability state. The active state is where there are at least one client so there

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are some traffic so the availability can still be at its highest according to that particular server. A full state is the predetermined service capacity threshold has been reached which determines that there are no availability and cannot continue to service communication (col.5, lines 38-58).

Applicant argues that the service state does not indicate the current load level of a particular server such as to show how busy the server is in relation to other servers and sending new clients to the server (pg.3-4). However, the claims fails to limit applicant's argument. Further, applicant argues that Civanlar teaches removing the servers where applicant claims the removing of at least one of said computers on claims 13 and 15.

As for claim 17, broadly limits to loadsharing based on load information. Load information can be any information for a particular load (i.e. size, length, amount, etc.). Civanlar does teach the load information where the availability is shown as in idle, active, or full state (col.5, lines 38-58).

**Conclusion**

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

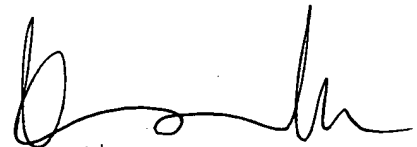
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEYNNA T. HA whose telephone number is (571) 272-3851. The examiner can normally be reached on Monday - Thursday (7:00 - 5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (571) 272-3859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LHa

A handwritten signature in black ink, appearing to be "L. H. A.", is located in the lower right quadrant of the page. Below the signature, there is a faint, circular embossed seal, likely an official stamp of the Patent and Trademark Office.